Amendments to the Claims:

This listing of the claims will replace all prior versions and listings of claims in the application:

Listing of Claims:

1. (Currently Amended): A negative electrode active material for a non-aqueous electrolyte rechargeable battery capable of absorbing/desorbing lithium comprising: an inner layer comprising an alloy comprising Si and at least an element selected from the group consisting of Ti, Co, ~~Ni, Cu,~~ Mg, Zr, V, Mo, W, Mn and Fe; and a surface layer comprising silicon oxide of 0.2 to 1,000 nm in average thickness formed on said inner layer, wherein the active material is mainly composed of Si.

2. Original): The negative electrode active material in accordance with claim 1, wherein the average thickness of said surface layer is 1 to 100 nm.

3. (Original): The negative electrode active material in accordance with claim 1, wherein the average thickness of said surface layer is 1 to 10 nm.

4. (Original): The negative electrode active material in accordance with claim 1, wherein said surface layer has a thickness in the range of ±50% of the average thickness.

5. (Canceled)

6. (Currently Amended): A negative electrode active material for a non-aqueous electrolyte rechargeable battery capable of absorbing/desorbing lithium comprising: an inner layer comprising an alloy comprising a Si phase and an alloy phase containing at least an element selected from the group consisting of Ti, Co, ~~Ni, Cu,~~ Mg, Zr, V, Mo, W, Mn and Fe and a surface layer comprising silicon oxide of 0.2 to 1,000 nm in average thickness formed on said inner layer, wherein the active material is mainly composed of Si.

7. (Original): The negative electrode active material in accordance with claim 1, which is in the form of a thin film or powder.

8. (Original): The negative electrode active material in accordance with claim 1 including an amorphous Si phase.

9. (Currently Amended): A non-aqueous electrolyte rechargeable battery using a negative electrode active material capable of absorbing/desorbing lithium comprising: an inner layer comprising an alloy containing Si and at least an element selected from the group consisting of Ti, Co, ~~Ni, Cu,~~ Mg, Zr, V, Mo, W, Mn and Fe; and a surface layer comprising silicon oxide of 0.2 to 1,000 nm in average thickness formed on said inner layer, wherein the active material is mainly composed of Si.

10-12 (Canceled)